**REMARKS**

Initially Applicant would like to thank Primary Examiner Najjar for granting an interview and for his time spent in the interview.

Claims 1-32 are pending in the application.

Applicant would also like to thank Examiner Salad for indicating that claims 2, 4, 5, 9, 11, 16, 18, 20 and 26 are allowed.

Claims 1, 3, 6-8, 10, 12-15, 17, 19 and 21-25 and 27-32 are rejected as unpatentable over CRISS et al. 6,308,061 in view of FUENTES 5,960,340. This rejection is respectfully traversed.

The position set forth in the Official Action is that CRISS et al. teaches that the client computer initiates the request for a software upgrade. Column 2, line 63 through column 3, line 5 of CRISS et al. is cited for such teaching. Such passage teaches a software update schedule table for providing one or more times at which the mobile device is to inquire and obtain available software upgrades. Specifically the device is configured to obtain wireless software upgrades at predetermined times, for example when the host computer is at a low-load level.

However, such client computer initiated request is not a request message to the server system in response to an event triggered by a user of the client terminal as recited in claim 1

of the present application. For example, page 11, lines 16-22 of the present application disclose that whenever the user triggers an event on the mobile terminal such as a power on state, the operating state of a start of call key or an end of call key, the client terminal transmits a request message to the server system. By sending requests in this manner, the traffic load on the communication network is evenly distributed among mobile terminals.

In contrast, in the embodiment of CRISS et al. where there is a client computer initiated request, such request is at a predetermined time and not in response to an event triggered by a user of the client terminal.

As discussed at the interview, CRISS et al. teach many different embodiments. In certain embodiments, the server initiates the update request; in other embodiments, the client initiates the update request. However, CRISS et al. does not teach an embodiment wherein the client terminal transmits a request message to the server in response to an event triggered by a user of the client terminal as recited in claim 1.

Specifically, column 7, lines 15-51 of CRISS et al. (noted in the Official Action) teaches that "the host computer 30 requests from the mobile terminal indicia which identifies which version of operating software the mobile terminal is running". (See lines 29-31). Accordingly, such passage teaches that the

host computer transmits the request message, not that the client terminal transmits the request message.

Column 11, line 54 to column 12, line 54 of CRISS et al. (also noted in the Official Action) also teach that the host computer transmits a request message that contains the version identifier. (See column 12, lines 42-45).

In addition, it appears that for the embodiment of CRISS et al., wherein the client terminal transmits the request message, the processor 40 of the client terminal compares incoming version data to a version stored within the terminal before a request for an upgrade is initiated.

As recited in claim 1, the request message is sent by the client terminal and then at the server terminal, a comparison is made of the versions and if the versions do not match, then the upgrade is sent to the client terminal. Accordingly, version number mismatch is determined at the server system of the present invention whereas version system mismatch is determined at the client terminal in the above-noted embodiment of CRISS et al.

FUENTES is only cited for the teaching of a client request containing a phone number of the client terminal. FUENTES does not teach or suggest transmitting a request message in response to an event triggered by a user of the client terminal. In addition, FUENTES does not teach or suggest a server system transmitting a copy of a most recent data and

version number of the most recent data to the client terminal via a communication network if there is a mismatch between the compared version numbers.

In addition, as set forth in the interview, applicant respectfully disagrees with the characterization of FUENTES set forth in the Official Action. Specifically, as set forth in the Official Action, FUENTES is cited for the teaching of sending a client request with the phone number of the client. However, as noted in the amendment of February 3, 2004, FUENTES is directed to call forwarding so that a wireless system can determine when a wireless telephone is "on" so that calls to the user can be forwarded to the user. FUENTES does not address the problem of software upgrades. FUENTES only uses the telephone number of the wireless unit so that calls can be forwarded to that telephone number.

The problem to be solved in CRISS et al. is to update software without overloading the system at peak times. This object is achieved by having a scheduled update time. One of ordinary skill in the art faced with such a problem would not look to the call forwarding art to find a solution. The teachings of FUENTES are not relevant to the problems faced by CRISS et al. and the addition of a telephone number for call forwarding would not be advantageous to CRISS et al.

One of ordinary skill in the art would not look to the call forwarding art to solve the problem of including a phone number in a software update request. In addition, there is no teaching or suggestion that the system of FUENTES is usable for a software upgrade. *In re Fine* cited in the Official Action, states that one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.

Accordingly, the proposed combination of references would not be obvious to one of ordinary skill in the art. In addition, even if the references were combined in the suggested manner, they do not teach each of the limitations of claim 1. Accordingly, claim 1 and the claims that depend therefrom, are believed patentable over the cited prior art.

Claim 3 also provides a step of at the client terminal transmitting a request message to the server in response to an event triggered by a user of the client terminal and includes a step of at the server system transmitting a copy of the set of the most recent data modules and the version numbers of the most recent data modules to the client terminal via the communication network if there is a mismatch between the compared version numbers. The comments above regarding claim 1 are equally applicable to claim 3. Accordingly, claim 3 and the claims which

depend therefrom are also believed patentable over the cited prior art.

Claim 10 also includes the steps of at the client terminal transmitting a request message to a receiving server in response to an event triggered by a user of the client terminal. Claim 10 also includes the step of at a receiving server receiving a request from the client terminal and comparing the version numbers contained in the received request to store version numbers and transmitting a download request to a sending server if there is a mismatch between the compared version numbers. The comments above regarding claim 1 are also applicable to claim 10. Accordingly, claim 10 and the claims that depend therefrom are also believed patentable over the cited prior art.

Claim 17 provides a client terminal transmitting a request to a communication network in response to an event triggered by a user of the client system and a server system transmitting a copy of the most recent data and the version of the most recent data to the client terminal via the communication network if there is a mismatch between the compared version numbers. The comments above regarding claim 1 are also equally applicable to claim 17. Accordingly, claim 17 and the claims that depend therefrom, are also believed patentable over the cited prior art.

Claim 19 provides a client terminal transmitting a request message to the communication network in response to an event triggered by a user of the client terminal and a server system transmitting a copy of the set of most recent data modules and the version numbers of the most recent data modules to the client terminal via the communication network if there is a mismatch between the compared version numbers. The comments above regarding claim 1 are also equally applicable to claim 19. Accordingly, claim 19 and the claims that depend therefrom, are also believed patentable over the cited prior art.

Claim 25 provides a client terminal transmitting a request message to a communication network in response to an event triggered by the user of the client terminal and a receiving server comparing the version number contained in the received request to a stored version number and transmitting a download request to a sending server if there is a mismatch between the compared version numbers. The comments above regarding claim 1 are also equally applicable to claim 25. Accordingly, claim 25 and the claims that depend therefrom, are also believed patentable over the cited prior art.

In view of the foregoing remarks, it is believed that the present application is in condition for allowance. Reconsideration and allowance are respectfully requested.

Respectfully submitted,

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